

(3) Not engage in any activities on other land on the farm on which the easement exists that will, as determined by NRCS; (i) alter the flow of surface or subsurface water into or out of the easement area except as specified in the WRPO; or (ii) be otherwise inconsistent with the terms of the easement.

(c) The activities of any person on the property shall be considered for purposes of this section to be the actions of the program participant. However, if the NRCS determines that the activities of the person were beyond the control of the program participants, NRCS may adjust the remedies provided for in this part to the extent determined consistent with program goals. Obligations created by the easement shall run with the land and shall bind all persons having an interest in the property at any time whether such interest is created by death of the owner, sale, assignment, or otherwise.

§ 623.12 Payments to landowners by NRCS.

(a) NRCS will share the cost with landowners of rehabilitating the enrolled land in the EWRP as provided in the WRPO. The amount of the cost-share assistance shall be specified in the contract. Eligible costs for such cost-share assistance by NRCS shall only include those costs which NRCS determines are appropriate and shall be subject to the following restrictions:

(1) The State Conservationist will establish cost-share rates of between 75 to 100 percent of the historical cost of establishing or installing the practices specified in the WRPO; or pay the average cost of establishing the practices specified in the WRPO, based on the historical cost of establishing the practices in the State;

(2) Cost-share payments may be made only upon a determination that an approved practice or an identifiable unit of the practice has been completed in compliance with NRCS approved standards and specifications; and

(3) Cost-share payments may not be made for the maintenance of the practice except as specifically permitted in writing by the State Conservationist.

(b) Notwithstanding paragraph (a)(3) of this section, cost share payments

may be authorized for the replacement or restoration of practices for which cost share assistance has been previously allowed under the EWRP, but only if:

(1) Replacement or restoration of the practice is needed to meet the objectives for which the easement was established; and

(2) The failure of the original practice was due to reasons beyond the control of the participant.

(c)(1) NRCS shall pay the amount agreed upon by NRCS and the landowner for the purchase of the easement in a lump-sum amount after the easement is perfected in compliance with State law, except in the case of paragraph (c)(2) of this section.

(2) For all easements, NRCS shall pay no more than 75 percent of the total easement price pending completion of the practices to restore the wetlands as provided under the WRPO. The remaining amount shall be paid when NRCS determines the restoration is complete.

(d) After an easement is perfected, NRCS will reimburse landowners for fair and reasonable expenses incurred for title searches, filing expenses, and related costs, as determined by NRCS.

§ 623.13 Wetlands reserve plan of operations.

(a) After NRCS has accepted the applicant for enrollment in the program, a WRPO will be developed by the landowner and NRCS, in consultation with FWS.

(b) The WRPO shall:

(1) Include an aerial photo displaying the land offered for enrollment;

(2) Specify the manner in which the eligible land shall be restored, operated, and maintained to accomplish the goal of the program, including, but not limited to: (i) measures to control noxious weeds and insect pests in order to comply with applicable Federal, or State noxious weed and pest control laws; and (ii) measures to control other specified species of weeds, insects or pests;

(3) Specify compatible land uses for personal enjoyment for which the landowner may be compensated. These compatible land uses shall be reserved to the landowner in the easement. Such uses may include, among others:

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(1) recreational use, hunting and fishing; (ii) manage timber production including harvesting; and (iii) managed haying or grazing consistent with the goals of the program;

(4) Set out cost estimates of the practices required by the WRPO, the offer for the easement, and other reimbursement costs;

(5) Identify access routes to be maintained for wetland restoration activities and future management and easement monitoring in connection with the land to be enrolled;

(6) Make provisions deemed necessary for maintaining public drainage systems if present on lands subject to the WRPO;

(7) Contain scheduled implementation dates for restoration practices;

(8) Contain other provisions or limitations as NRCS, in consultation with the FWS, determines to be necessary.

(c) NRCS in consultation with FWS will collect from State or Federal agencies whatever additional information is deemed necessary for the development of the WRPO with the landowner.

(d) The WRPO must be signed by NRCS, FWS, Conservation District (CD), and the landowner(s). However, if agreement between NRCS and FWS, or CD at the local level is not reached within 20 calendar days, the WRPO shall be developed by the State Conservationist of NRCS in consultation with FWS or CD.

(e) The WRPO may require that a temporary vegetative or water cover be established on the property if immediate establishment of a permanent cover is not practicable or otherwise desirable.

(f) The terms of an approved WRPO shall not relieve the program participant of any obligation or term imposed or provided for in the contract, the easement, or this part.

(g) WRPO, where appropriate, will provide for the development of a tree planting plan with the assistance of the FS or State forestry agency.

(h) The WRPO, where appropriate, will provide for the development by NRCS of detailed plans for weed control, structural measures and their operation, vegetation establishment and

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management, and other measures as needed.

(i) Revisions of the WRPO to enhance or protect the value for which the easement was established may be made at any time at the request of either NRCS, FWS, the owner and upon the concurrence of all three parties.

§ 623.14 Easement modifications.

After the easement has been perfected, no change will be made in the easement without a written request by the participant and the written consent of the Chief. Approval may be granted to achieve the goals of EWRP or facilitate the practical administration and management of the easement area or the program and the approval will not adversely affect the functions and values for which the easement was established. A modified easement shall be perfected in accordance with State law and NRCS superior interest shall be reserved by the landowner in accordance with §§ 623.7 and 623.11(a)(3).

§ 623.15 Transfer of land.

(a) If a new owner purchases or obtains the right and interest in, or right to occupancy of, the land subject to a EWRP easement, such new owner shall be subject to the terms and conditions of the easement. The participant who is the signatory to the easement shall be entitled to receive all remaining payments, if any, for the purchase of the easement. Eligible cost-share payments shall be made to the participants, with respect to costs actually incurred.

(b) Upon the transfer of the property subject to an EWRP easement, any remaining cost-share payments shall be paid to the new owner or purchaser only if the new owner or purchaser becomes a party to the WRPO within 60 days of the perfection of the deed transferring title to the new owner. Such payments shall be paid in the manner agreed to by the participant and the buyer. The new owner or purchaser shall be responsible for assuring completion of all measures and practices required by the contract and the WRPO.

(c) Any transfer of the property prior to the perfection of the easement shall void any NRCS offer or WRPO unless